

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI  
NORTHERN DIVISION**

OLIVIA Y., by and through her next friend, James D. Johnson; JAMISON J., by and through his next friend, Clara Lewis; DESIREE, RENEE, TYSON, and MONIQUE P., by and through their next friend, Sylvia Forster; JOHN A., by and through his next friend, James D. Johnson; CODY B., by and through his next friend, Sharon Scott; MARY, TOM, MATTHEW, and DANA W., by and through their next friend, Zelatra W.; AND SAM H., by and through his next friend, Yvette Bullock; on their own behalf and behalf of all others similarly situated,

Plaintiffs,

CIVIL ACTION NO.  
3:04-CV-251-TSL-FKB

v.

PHIL BRYANT, as Governor of the State of Mississippi;  
DONALD TAYLOR, as Executive Director of the  
Department of Human Services; AND BILLY MANGOLD,  
as Director of the Division of Family and Children's  
Services,

Defendants.

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**DECLARATION OF MARCIA ROBINSON LOWRY**

I, Marcia Robinson Lowry, an attorney of record in this civil action, make this declaration under penalty of perjury and pursuant to 28 U.S.C. § 1746:

1. I am a member of the Bar of New York and admitted to practice in this Court *pro hac vice*. I am lead counsel for the Plaintiff Class in this case along with local counsel, Wayne Drinkwater and Michael Bentley of the firm of Bradley Arant Boult Cummings LLP. I am the Executive Director of a non-profit organization, A Better Childhood ("ABC"). I give this Declaration in support of Plaintiffs' 2019 Motion For Payment of Plaintiffs' Attorneys' Fees

**EXHIBIT**

**1**

and Expenses, and seek an order with a specific time period by which Defendants will pay these fees.

2. I have previously submitted my Declaration to this Court in 2016 in support of Plaintiffs' First Motion Seeking Class Counsel's Contested Attorneys' Fees and Expenses. [Dkt. No. 686-1] That Declaration sets forth in detail my education and previous experience litigating child welfare cases.
3. On February 1, 2019, Plaintiffs submitted an invoice to Defendants for monitoring and enforcement work performed by Plaintiffs' counsel on behalf of the Plaintiff class from July 1, 2018 through and including December 31, 2018.
4. Through negotiations, the parties have agreed upon the amount of **\$220,352.33**, to be paid by Defendants.
5. Despite Plaintiffs' insistence to the contrary, Defendants notified me in a letter dated May 20, 2019, of their continued position that no judgment shall be paid by the state of Mississippi except through legislative appropriation.
6. The Mississippi state legislature is not in session and does not convene again until January 7, 2020. (*See* 2020 Mississippi Legislative Schedule, attached hereto as **Exhibit A.**)
7. The 2020 legislative session is expected to close in late May 2020. (*See* Ex. A).
8. If Defendants are permitted to remit payment in accordance with legislative appropriations, Plaintiffs may be forced to wait more than one year from the time they submitted their invoice to finally receive payment, if at all.<sup>1</sup>
9. Moreover, Plaintiffs seek these fees pursuant to 42 U.S.C. § 1988, a federal statute that creates an entitlement to fees in a case raising constitutional issues. There has been no

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<sup>1</sup> Plaintiffs submitted their invoice on February 1, 2019. The legislative session is expected to end in late May 2020.

dispute in this case, since its inception, that it raises constitutional issues. Therefore, state law does not govern the award of fees in this matter.

10. Plaintiffs, therefore, respectfully seek entry of an order approving the parties' agreement for attorneys' fees and expenses in the amount of \$220,352.33 and ordering Defendants to remit payment within thirty (30) days of entry of the requested order.

I declare under penalty of perjury that the foregoing is true and correct.

Executed, this the 28 day of May 2019 in New York, New York.

/s/ Marcia Robinson Lowry  
Marcia Robinson Lowry (*pro hac vice*)

The 2020 Regular Session of the Mississippi Legislature convenes at 12:00 Noon on Tuesday, January 7, 2020.

## LEGISLATIVE DEADLINES 2020



45th day Thurs. Feb. 20	Deadline for making REQUESTS for general bills and constitutional amendments to be drafted.***
49th day Mon. Feb. 24	Deadline for INTRODUCTION of general bills and constitutional amendments.*
64th day Tues. Mar. 10	Deadline for COMMITTEES TO REPORT general bills and constitutional amendments originating in OWN House.*+
73rd day Thurs. Mar. 19	Deadline for ORIGINAL FLOOR ACTION on general bills and constitutional amendments originating in OWN House.*
74th day Fri. Mar. 20	Deadline for reconsideration and passage of general bills and constitutional amendments originating in OWN House.*
77th day Mon. Mar. 23	Deadline to dispose of motions to reconsider general bills and constitutional amendments originating in OWN House.*
86th day Wed. Apr. 1	Deadline for ORIGINAL FLOOR ACTION on APPROPRIATIONS and REVENUE bills originating in OWN House.
87th day Thurs. Apr. 2	Deadline for RECONSIDERATION AND PASSAGE OF APPROPRIATIONS and REVENUE bills originating in OWN House.
88th day Fri. Apr. 3	Deadline to dispose of motions to reconsider APPROPRIATIONS and REVENUE bills originating in OWN House.
92nd day Tues. Apr. 7	Deadline for COMMITTEES TO REPORT general bills and constitutional amendments originating in OTHER House.*+
100th day Wed. Apr. 15	Deadline for ORIGINAL FLOOR ACTION on general bills and constitutional amendments originating in OTHER House.*
101st day Thurs. Apr. 16	Deadline for RECONSIDERATION AND PASSAGE of general bills and constitutional amendments originating in OTHER House.*
102nd day Fri. Apr. 17	Deadline to dispose of motions to reconsider general bills and constitutional amendments originating in OTHER House.*
106th day Tues. Apr. 21	Deadline for ORIGINAL FLOOR ACTION on APPROPRIATIONS and REVENUE bills originating in OTHER House.
107th day Wed. Apr. 22	Deadline for RECONSIDERATION/PASSAGE of APPROPRIATIONS and REVENUE bills originating in OTHER House.
108th day Thurs. Apr. 23	Deadline to dispose of motions to reconsider APPROPRIATIONS and REVENUE bills originating in OTHER House.
109th day Fri. Apr. 24	Deadline to concur or not concur in amendments from OTHER House to APPROPRIATIONS and REVENUE bills, and for INTRODUCTION of LOCAL and PRIVATE bills that are REVENUE bills.
112th day Mon. Apr. 27	Deadline to dispose of motions to reconsider concurrence or nonconcurrence in APPROPRIATIONS and REVENUE bills.
115th day Thurs. Apr. 30	Deadline to CONCUR or not concur in AMENDMENTS from OTHER HOUSE to GENERAL bills and CONSTITUTIONAL amendments.
116th day Fri. May 1	Deadline for INTRODUCTION of LOCAL and PRIVATE bills that are not revenue bills.
117th day Sat. May 2	Deadline for CONFERENCE REPORTS on APPROPRIATIONS and REVENUE bills to be filed.**+
119th day Mon. May 4	Deadline for FINAL ADOPTION of CONFERENCE REPORTS on APPROPRIATIONS and REVENUE bills**+, and for CONFERENCE REPORTS on GENERAL BILLS and CONSTITUTIONAL AMENDMENTS to be filed.**+
120th day Tues. May 5	Deadline to dispose of motions to reconsider conference reports on APPROPRIATIONS and REVENUE bills.
121st day Wed. May 6	Deadline for first consideration of conference reports on general bills and constitutional amendments.
122nd day Thurs. May 7	Deadline for filing conference reports on general bills and constitutional amendments that had been recommitted for further conference.+

123rd day Fri. May 8	Deadline for adoption of conference reports on general bills and constitutional amendments after recommitment.
124th day Sat. May 9	Deadline to dispose of motions to reconsider conference reports on general bills and constitutional amendments.
125th day Sun. May 10	SINE DIE

\* Appropriation, revenue, and local and private bills, and bills to restore suffrage are excluded from these deadlines. For purposes of the deadlines herein set forth, the term "revenue bills" shall include only those bills whose primary purpose is to increase or decrease taxes or to authorize the issuance of bonds or the borrowing of money. Bills which are primarily for regulatory purposes which have revenue provisions included shall not be considered as revenue bills for deadline purposes. The deletion from a bill of the features which made it a revenue bill shall render the bill a general bill for deadline purposes.

\*\* Conference reports on all bills must be filed with the Secretary/Clerk no later than the time of adjournment on the day prior to being called up and considered. Appropriation bills which actually appropriate money and are recommitted for further conference are excluded from the requirement that the subsequent conference report be filed and lay on table one (1) day before being considered; however, original action must be taken on all appropriation conference reports by 2:00 p.m. on the 84th/119th day and subsequent reports must be filed no later than 6:00 p.m.

\*\*\* Requests for general bills and constitutional amendments to be drafted must be made no later than 8:00 p.m. on the 9th/45th day. The Rules Committee of the House or Senate, as the case may be, may authorize any member of its respective house to make requests, for one or more general bills or constitutional amendments to be drafted, after the expiration of the deadline for making such drafting requests but before the deadline for introduction of bills and constitutional amendments, upon a determination by the Rules Committee that such drafting requests are in response to conditions of an emergency nature arising subsequent to the deadline for making requests for general bills and constitutional amendments to be drafted.

+ Committee reports and conference reports that are subject to being filed on these deadlines must be filed with the Secretary/Clerk no later than 8:00 p.m.

Whenever the word "day" appears in this rule, it shall mean calendar day.

The above schedule shall not be deviated from except by the passage of a concurrent resolution adopted by a vote of two-thirds (2/3) of the membership of the House and Senate present and voting.